

07 - 374

AO 241
(Rev. 12/04)

Page 2

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District: <i>OF Delaware</i>
Name (under which you were convicted): <i>GLEN W DUCOTE</i>		Docket or Case No.: <i>IN 03-05-0577-0579-1800</i>
Place of Confinement: <i>D.C.C. 1181 Paddock Road SMYRNA DELA 19977</i>		Prisoner No.: <i>00210611</i>
Petitioner (include the name under which you were convicted): <i>GLEN W DUCOTE</i>		Respondent (authorized person having custody of petitioner): <i>THOMAS CARROLL (WARDEN.)</i>
The Attorney General of the State of <i>MR. Joseph Biden III</i>		<i>07 - 374</i>

PETITION

FILED

JUN 12 2007

RG:scm
U.S. DISTRICT COURT
DISTRICT OF DELAWARE

- (a) Name and location of court that entered the judgment of conviction you are challenging: *NEW CASTLE COUNTY SUPERIOR COURT. 500 N. KING STREET. WILMINGTON DELA. 19801*

(b) Criminal docket or case number (if you know): *IN-03-05-0577-0579-1800*
- (a) Date of the judgment of conviction (if you know): *1-15-2004*

(b) Date of sentencing: *3-19-2004*
- Length of sentence: *NATURAL LIFE + 4 YEARS*
- In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No
- Identify all crimes of which you were convicted and sentenced in this case:

<i>ATTEMPT MURDER 1ST</i>	<i>P. S. W. S. C. F.</i>
<i>KIDNAPPING 1ST</i>	<i>P. S. W. P. P.</i>
- (a) What was your plea? (Check one)

<input checked="" type="checkbox"/> (1) Not guilty	<input type="checkbox"/> (3) Nolo contendere (no contest)
<input type="checkbox"/> (2) Guilty	<input type="checkbox"/> (4) Insanity plea

AO 241
(Rev. 12/04)

Page 3

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

NONE

(c) If you went to trial, what kind of trial did you have? (Check one)

☒ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☐ Yes ☒ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following: DELA. SUPREME COURT.

(a) Name of court:

(b) Docket or case number (if you know): 118.

(c) Result: AFFIRMED

(d) Date of result (if you know): 5-18-2005

(e) Citation to the case (if you know):

(f) Grounds raised: 6th AMENDMENT Right to a Fair Trial

6th AMENDMENT Right to Counsel

TRIAL COURT ERRED in HEARING the trial motion BEFORE TRIAL.

ABUSE OF DISCRETION

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: SUPERIOR COURT RULE 61

(2) Docket or case number (if you know): 41

(3) Result: AFFIRMED

(4) Date of result (if you know): MAY 22. 2007

AO 241
(Rev. 12/04)

Page 4

(5) Citation to the case (if you know):

(6) Grounds raised: *INEFFECTIVE COUNSEL*

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court? ☒ Yes ☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: *SUPERIOR COURT*

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding: *ILLEGAL SENTENCE*

(5) Grounds raised:

*EDIE V STATE 2 felons within
30 DAYS OF LEACH OUTING**CROSBY V. STATE 1 felon**Forgery second**SENTENCED TO NATURAL LIFE UNDER 4214-A
A-15 15 TO 45 YEARS B-NATURAL LIFE*

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes☒ No

(7) Result:

(8) Date of result (if you know):

AO 241
(Rev. 12/04)

Page 5

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

N/A

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result:

(8) Date of result (if you know):

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

N/A

AO 241
(Rev. 12/04)

Page 6

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☒ No

(7) Result:

(8) Date of result (if you know):

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No(2) Second petition: ☒ Yes ☐ No(3) Third petition: ☒ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

*FAILURE TO DECLARE A MISFEASANCE DUE TO SURVIVORS SUFFERING
VICTIM BEING HELD BY VICTIMS RIGHTS COUNSEL.*

(b) If you did not exhaust your state remedies on Ground One, explain why:

AO 241
(Rev. 12/04)

Page 7

(c) **Direct Appeal of Ground One:**

(1) If you appealed from the judgment of conviction, did you raise this issue?



Yes



No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?



Yes

~~No~~

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Direct Appeal

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

118 ANN 41

Date of the court's decision:

MAY 22, 2007

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?



Yes



No

(4) Did you appeal from the denial of your motion or petition?



Yes



No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?



Yes



No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

DELAWARE SUPREME COURT.

Docket or case number (if you know):

(118 Direct Appeal) (41 Post Conviction Appeal)

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

Affirmed.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

AO 241
(Rev. 12/04)

Page 8

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: *(Correction of Illness Sentence)*

(Post Conviction Rule 61)

GROUND TWO:

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Counsel's Failure to Brief Any of the Arguable Issues Presented for Appeal.

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state: *DELAWARE.*

Type of motion or petition: *Post Conviction*

Name and location of the court where the motion or petition was filed:

DELAWARE SUPERIOR COURT 500 N. King Street

Docket or case number (if you know): *41*

Date of the court's decision:

MAY 22, 2007

AO 241
(Rev. 12/04)

Page 9

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?

☐ Yes☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes☐ No(6) If your answer to Question (d)(4) is "Yes," state: DELAWARE.Name and location of the court where the appeal was filed: DELAWARE SUPREME COURT.Docket or case number (if you know): 41Date of the court's decision: MAY 22, 2007.

Result (attach a copy of the court's opinion or order, if available):

Dismissed.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you :
have used to exhaust your state remedies on Ground Two (ILLEGAL SENTENCE.)(POST CONVICTION)**GROUND THREE:**

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THE TRIAL COURT ERRED IN HEARING APPELLANTS MOTION
FOR DISMISSAL OF CHARGE BEFORE TRIAL.

(b) If you did not exhaust your state remedies on Ground Three, explain why?

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state: DELAWARE.

Type of motion or petition: RULE 61

Name and location of the court where the motion or petition was filed: DELAWARE SUPERIOR COURT
500 N. KING STREET WILMINGTON DELA 19801

Docket or case number (if you know): 41

Date of the court's decision: MAY 22, 2007

Result (attach a copy of the court's opinion or order, if available): Affirmed.

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state: DELAWARE.

Name and location of the court where the appeal was filed: DELAWARE SUPREME COURT.

Docket or case number (if you know): 41

Date of the court's decision: MAY 22, 2007.

Result (attach a copy of the court's opinion or order, if available): Affirmed.

AO 241
(Rev. 12/04)

Page 11

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three *(Appeal Sentence)*

*Post Conviction***GROUND FOUR:**

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

*SUPERIOR COURT ABUSED HIS DISCRETION IN SENTENCING.
APPELLANT TO LIFE (NATURAL LIFE.) UNDER 4214. A. WHICH
IS YEARS. 4214-B IS NATURAL LIFE. APPELLANT'S PRIOR
RECORDS ARE (2) NON-VIOLENT (2) VIOLENT.*

- (b) If you did not exhaust your state remedies on Ground Four, explain why:

- (c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☒ Yes☐ No

(2) If you did not raise this issue in your direct appeal, explain why:

- (d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒

Yes

☐ No

(2) If your answer to Question (d)(1) is "Yes," state: *DELAWARE.*

Type of motion or petition:

Rule 61.

(Ground Five:)

~~Ineffective Assistance of Counsel.~~

Failure to Present Defense Trial Counsel Failed to Properly Question STATES witnesses and failed to call any witnesses for the defense or present any defense whatsoever.

(Ground Six: ~~Ineffective Assistance of Counsel.~~

Failure to Investigate Trial Counsel Failed to Investigate Petitioner Case. Petitioner Never Seen Counsel until the Day of Arraignment Trial, Sentencing.

(Ground Seven:)

~~Ineffective Assistance of Counsel~~
 Improper Jury Voir Dire Trial Counsel Failed to Properly Conduct Jury Voir Dire, or Request the Court to Strike Jury Panel Members who were Biased in Favor of the State or States Witnesses. There NO Record of Jury Selection Strikes, or Voir Dire.

All Grounds Raised on Appeal.

AO 241
(Rev. 12/04)

Page 12

Name and location of the court where the motion or petition was filed: Delaware Superior
600 D. King Street Wilmington DE 19801

Docket or case number (if you know): 41

Date of the court's decision: MAY 22, 2007

Result (attach a copy of the court's opinion or order, if available): Affirmed

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☒ Yes ☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☐ No

(6) If your answer to Question (d)(4) is "Yes," state: Delaware

Name and location of the court where the appeal was filed: Delaware Supreme Court

Docket or case number (if you know): 41

Date of the court's decision: MAY 22, 2007

Result (attach a copy of the court's opinion or order, if available): Affirmed

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four

(Post Conviction)

(Appeal Sentence)

AO 241
(Rev. 12/04)

Page 13

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☒ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, ground or grounds have not been presented, and state your reasons for not presenting them: Have

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the raised.

AO 241
(Rev. 12/04)

Page 14

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

(b) At arraignment and plea:

SAMAS BRANDON O'NEILL

(c) At trial:

SAMAS BRANDON O'NEILL

(d) At sentencing:

SAMAS BRANDON O'NEILL

(e) On appeal:

Refused. Filed Rule 26 c (PRO'SA).

(f) In any post-conviction proceeding:

(PRO'SA)

(g) On appeal from any ruling against you in a post-conviction proceeding:

(PRO'SA)

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

AO 241
(Rev. 12/04)

Page 16

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief:

New trial or Release

or any other relief to which petitioner may be entitled.

(Pisa)

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 6 4 07 (month, date, year).

Executed (signed) on

[Signature]

(date) 6/4/07

[Signature]

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

IN FORMA PAUPERIS DECLARATION
[Signature]

[insert appropriate court]

DELAWARE
CORRECTIONAL CENTER
118 PADDOCK ROAD
SMITH, DELAWARE 19777

2007

WILMINGTON, DE 19804

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20



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11
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